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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,624	09/28/2001	Joan Clayton	1284-001	2281
4678	7590	01/12/2005	EXAMINER	
MACCORD MASON PLLC 300 N. GREENE STREET, SUITE 1600 P. O. BOX 2974 GREENSBORO, NC 27402				BROWN, MICHAEL A
		ART UNIT		PAPER NUMBER
		3764		

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/682,624	CLAYTON, JOAN <i>ON</i>
	Examiner	Art Unit
	Michael Brown	3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-19 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 6, 9-11 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell in view of Russo.

Campbell discloses in figures 1-2 an abdominal tube band, substantially as claimed. However, the issue is whether the opening of the pocket is away from the patient's skin. Russo teaches in figure 1 an abdominal tube band comprising a pocket 10 that opens away from the patient's skin. The pocket can be located on other places beside the stoma (fig. 8). It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the pocket disclosed by Campbell could be fabricated to open away from the skin of the user as taught by Russo to prevent any fluids from reaching the patient's skin. The inner surface of the device disclosed by Campbell is being interpreted as a low friction surface because it does not prevent movement of the tube. Since the tube is not positively claimed, no patentable weight was given to whether the tube moves inside of the pocket.

Claims 3-5, 7-8 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim1 above, and further in view of Helmer.

Helmer teaches in figures 1-2 an abdominal tube band comprising a fabric band 20 that is made of a breathable material (cotton), cotton, canvas or knitted (col. 11, lines 45-50). The pocket is made of a waterproof, water resistant material (col. 11, lines 64-66), ties (col. 11, lines 59-61) that can be used to hold the rectangular fabric around the user's waist. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the fabric band disclosed by Campbell and taught by Russo could be fabricated of a breathable material to allow air and sweat to pass through the fabric. The cotton, canvas and knitted material are durable and comfortable to the wearer. The pocket being waterproof would prevent fluids from reaching the medical tubing inside of the pocket. The ties could be substituted for the hook and loop fasteners. The coating inside of the pocket would prevent fluids from passing through the pocket. The polyethylene is a specific plastic that would prevent fluids from passing through the pocket. The decoration or printed material could be used to enhance or display logos or words on the band. The plastic material of the pocket would provide a liner that is synthetic.

### **Conclusion**

No additional prior art was cited during the first office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 703-308-2682. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571- 272 -4875. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Brown  
January 10, 2005



MICHAEL A. BROWN  
PRIMARY EXAMINER